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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/033,868      | 12/19/2001  | Alain Marie          | 14XZ00134           | 1273             |
| 7590            | 05/21/2004  |                      |                     |                  |

Jay L Chaskin  
Cantor Colburn LLP  
55 Griffin Road South  
Bloomfield, CT 06002

EXAMINER

MCCALL, ERIC SCOTT

| ART UNIT | PAPER NUMBER |
|----------|--------------|
|----------|--------------|

2855

DATE MAILED: 05/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/033,868

Applicant(s)

MARIE ET AL.

Examiner

Eric S. McCall

Art Unit

2855

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM  
THE MAILING DATE OF THIS COMMUNICATION:

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 23 February 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 December 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

# **MAMMOGRAPHY APPARATUS AND METHOD**

## **NON-FINAL REJECTION**

In response to the Applicant's R.C.E. with amendment dated Feb. 23, 2004.

### **CLAIMS**

#### **35 U.S.C. § 102**

In response to the Applicant's amendments and corresponding arguments, the rejection of claims 1-15 under 35 U.S.C. 102(b) as being anticipated by Coe (5,305,365) as set forth in the previous office actions has been overcome.

However, the following now applies:

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 5, 6, 8-13, and 16-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Siczek (5,386,447).

With respect to claims 1 and 16, Siczek teaches an apparatus, and the method of claim 8, comprising:

- an examination arm (52 & 54) with, at one end thereof, an image receiver (36), and a radiation delivery head (19) at the other end,

- a support (44) on which the arm is mounted;

- the arm being mounted for rotation ("F") about a first axis (56) substantially perpendicular to the direction of the examination arm and passing through the center of an examination position intended for an object to be examined (Fig. 1), such that a switch-over from a craniocaudal image to a side view image may result from rotation of the examination arm about the first axis with the object to be examined substantially stationary (col. 7, lines 22-39);

- the arm being further mounted for rotation ("G") about a second horizontal axis substantially perpendicular to the first axis and to the examination arm (Figs 1 & 2); and

- a support column (26) on which the support (44) can be moved up and down vertically.

With respect to claim 2, Siczek suggests the claimed subject matter thereof (Fig. 2).

With respect to claims 5 and 6, Siczek teaches the claimed subject matter thereof (col. 7, lines 22-39).

With respect to the method claims 9-13, Siczek suggests the claimed subject matter thereof by the operation of the device thereof.

With respect to claims 17-20, Siczek suggests the claimed subject matter thereof (Figs. 1 & 2).

35 U.S.C. § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3, 4, 7, 14, and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Siczek (5,386,447).

With respect to claims 3 and 4 (and the method claims 14 and 15), Siczek teaches the examination arm rotating about the second axis from a vertical position to a position between vertical and horizontal but fails to teach the arm rotating to a horizontal position.

However, it would have been obvious to one of ordinary skill in the art armed with said teaching to modify the Siczek teaching so that the arm rotates to the horizontal position.

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The motivation being that such a position would allow for the examination of a patient while the patient is lying down which would be beneficial if the patient is handicapped and unable to stand in an upright position.

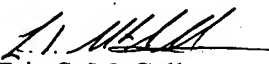
With respect to claim 7, said claim parallels that of claims 5 and 6 (see col. 7, lines 22-39) but depends from claim 3.

**RELEVANT ART**

The Applicant's attention is directed to the enclosed "PTO-892" form for the prior art made of record and not relied upon but considered pertinent to the state of the art of the Applicant's disclosure.

**CONCLUSION**

Any inquiry concerning this communication should be directed to Eric S. McCall at telephone number (571) 272-2183.

  
Eric S. McCall  
Primary Examiner  
Art Unit 2855  
May 14, 2004